

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL POLICIES AND PROCEDURES

Subject: LEAVE BANK

Date: July 21, 2008

Ref: DHRM Rule Sections R477-7-4 and R477-7-18

Purpose:

To provide guidance for establishment of a leave bank as provided for in DHRM Rules. This policy authorizes and defines the limitations for use of a leave bank intended to provide additional leave hours for eligible employees who suffer a catastrophic event and do not have sufficient leave to remain in a paid status during their absence from work.

Policy:

1. Eligible employees who have suffered a catastrophic illness or condition and whose leave benefits have been or will be exhausted may apply for donation of annual, excess or converted sick leave from other state employees. Other state employees may donate leave to DAS but it must be in compliance with this policy and approved by the Division Director and the Executive Director, or the Executive Director's designee. Catastrophic is defined as an illness, a physical condition or an accident producing a life threatening or incapacitating condition for which extensive medical treatment or prolonged absence from work is necessary.
2. Only full-time permanent employees currently receiving benefits may apply to receive leave bank hours. Normally, leave banks are for accidents or conditions incurred by the employee but management will consider granting leave banks to employees who have dependents who suffer catastrophic illnesses or conditions on a case-by-case basis.
 - a. Access to a leave bank is not an employee right and will be authorized at management discretion after considering multiple factors regarding the employee and their medical status.
 - b. Employees requesting a leave bank must provide certification as required for leave under the Family and Medical Leave Act before management can determine if the employee is eligible to receive donated leave. Time used from a leave bank is charged against FMLA.

- c. If an employee is not eligible for FMLA, they must provide comparable medical certification before management can determine if an employee is eligible to receive donated leave.
- d. A general leave bank will be established and eligible employees will receive hours from this bank. If adequate hours are not available in the general leave bank, a leave bank can be established for the individual requiring leave. Annual, excess and converted sick leave hours, in any amount, may be donated.
- e. An employee must agree to release a sufficient amount of medical information that can be provided to potential leave donors. Attachment 1.
- f. Before donated hours may be transferred to the individual needing leave, they must exhaust all their available leave (annual, sick, converted sick, excess, comp).
- g. Donated leave time will be added to the employee's sick leave balance. The leave balances of donating employees will be reduced by the amount of hours they contribute. The employee receiving the hours continues to be paid by the employing division. There is no cost to the division of employees contributing to the leave bank.
- h. Only employees of agencies with approved leave bank programs may donate leave hours to another agency with a leave bank program, if mutually agreed upon.
- i. Employee use of the leave bank is not intended to be a long-term solution. A maximum of three calendar months of donated leave hours may be utilized by an employee per illness or condition. Donated leave may be granted on a less than full time basis.
- j. Donated leave time cannot be utilized at the same time as other income maintenance, such as Workers Compensation or long term disability.
- k. State law requires that employees forfeit all accrued annual leave that is in excess of 320 hours at the end of each calendar year. Therefore, all annual leave that would be forfeited by department employees will be transferred to the DAS general leave bank. All excess annual leave will be transferred to the general leave bank after the final payroll for pay period 26 has been processed. To ensure that all leave transfers are voluntary, an annual email will be sent to DAS employees explaining the policy and giving them the opportunity to decline the transfer of their excess annual leave to the DAS general leave bank.
- l. The Request for Leave Bank form (Attachment 2) is completed by the employee or supervisor. If possible, application should be made prior to the employee exhausting their leave benefits. The division director shall review the request and give their recommendation for approval or denial and then forward the form and all appropriate back-up documentation, to the department's human resource

specialist for review. Factors to consider when reviewing an employee application to use the leave bank include:

- a. Employee's leave usage. Determine if the employee has used their leave in a judicious manner.
 - b. Duration of employment.
 - c. Anticipated duration of illness or condition.
 - d. Ensure the condition meets the definition of catastrophic.
 - e. Use of leave banks in the past.
- m. The human resource specialist will review the request and forward the application along with their recommendation to the executive director for final consideration.
- n. The Executive Director, or the Executive Director's designee, is the approving authority for this program and decides the level of donation, if any, that can be made to an employee.
- o. An employee who is on any form of paid leave granted through a leave bank may not engage in outside employment without approval from the Executive Director or the Executive Director's designee.

PROTECTED

**RELEASE OF INFORMATION REQUEST
AND CONFIDENTIALITY WAIVER**

Purpose: to seek annual, excess or converted sick leave hours from other employees in accordance with the Department of Administrative Services= internal policies and procedures for the donation of annual, excess or converted sick leave.

With respect to my leave bank request, I waive any confidentiality rights that I have or may have under the Americans with Disabilities Act of 1990* or any other similar federal or state legislation. I authorize the release of the following personal and medical information:

Name (to be used in the request): _____

Reason for donation (what I authorize to be said to others): _____

Signature Date

Witness Date

**Specific statutory and regulatory language on confidentiality is most readily found in the Americans with Disabilities Act, Title I at 42 U.S.C. ss 12112(d)(3) & (4); 29 C.F.R. ss1630.16, the EEOC's interpretive guidance and its Technical Assistance Manual.*

**DEPARTMENT OF ADMINISTRATIVE SERVICES
REQUEST FOR LEAVE BANK
APPROVAL PROCESS**

Instructions: After obtaining the Release of Information Request and Confidentiality Waiver from the employee, division directors, in consultation with the employee's supervisor, should complete this form.

Employee Name: _____ Division: _____

Leave balances at the end of the last pay period:

Annual: _____ Sick: _____ Converted Sick: _____ Comp: _____ Excess: _____

Briefly describe why assistance is needed (attach copies of medical documentation):

Dates of anticipated leave of absence:

Beginning date: _____ Ending date: _____

APPROVAL:

Recommend Approval _____ Recommend Denial _____

Division Director: _____ **Date:** _____

Please attach a memorandum of justification for your recommendation

Recommend Approval _____ Recommend Denial _____

HR Director: _____ **Date:** _____

Approve _____ Deny _____

Executive Director _____ **Date:** _____